

1
2
3
4
5
6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 LORENZO TUCKER,

14 Defendant.
15

Case No. 2:08-CR-00025-KJD-LRL

ORDER

16 Before the Court is Defendant Lorenzo Tucker's Motion to Vacate under 28 U.S.C. 2255
17 (#150). Also before the Court are Defendant's Motion for Expedited Hearing (#149); Motion for
18 Default Judgment on Failure to Answer (#152); and Motion for Final Default (#158).

19 **I. Analysis**

20 The Court has reviewed Defendant's Motion to Vacate (#150), including Defendant's
21 Affidavit of Inquiry, Notice of Intent (#139) incorporated by reference in Defendant's Motion.
22 Defendant's Motion (#150) is without merit and is hereby **DENIED**. Further, as this Motion forms
23 the basis for all remaining Motions, they are hereby **DENIED** as moot.

24 Additionally, Defendant is under the incorrect impression that the Government is required to
25 respond to his § 2255 Motion. If it plainly appears that the defendant is not entitled to relief, the court
26 must dismiss the motion. Rules Governing § 2255 Proceedings, Rule 4, 28 U.S.C. foll. § 2255. Such

1 is the case here. Only if the court does not dismiss the motion will the court order the United States
2 attorney to file a response. Id. Accordingly, no error has been committed by the Government in not
3 responding to Defendant's motions. This fact alone requires denial of Defendant's Motions for
4 Default (##152 and 158).

5 II. Conclusion

6 Defendant's Motion to Vacate under 28 U.S.C. 2255 (#150) is **HEREBY DENIED**.
7 Defendant's remaining Motions (## 149, 152, and 158) are also **DENIED** as moot.

8 DATED this 9th day of September 2013.

9
10
11 

12 _____
Kent J. Dawson
United States District Judge